

S/N 10/624,660

Attorney Ref. No. 659-1143
Client Ref. No. 19,226

REMARKS

Claims 1, 2, 7-13 and 15:

The Examiner has rejected claims 1, 2, 7-13 and 15 under 35 USC 102(e) as being anticipated by US Patent Pub. No. 2004/0122397 to Morman et al. Applicants note that the Examiner previously *withdrew* a rejection of claim 1 in view of Morman made in an Office Action mailed March 27, 2007 (see page 9 thereof), as evidenced by the lack of such a rejection in a subsequent Office Action mailed August 18, 2008. Applicants respectfully submit that the Examiner was correct in withdrawing the prior rejection.

In particular, and as set forth in arguments made in an Amendment filed June 4, 2007, claim 1 recites that “said cutout *extends from at least one of said first and second cut edges toward a respective one of said first and second outer edges,*” and further “connecting a crotch member to each of said rear and front body panel webs, wherein said crotch member covers an *entirety* of said cutout.”

As asserted by the Examiner, Morman discloses forming a “cutout” in the web (Office Action at 3; Morman at FIGS. 3-5, para. 64). Contrary to the Examiner’s assertion however, Morman does *not disclose or suggest* that the “cutout is the section of the waste material cut from the area to be covered by crotch member 50” (Office Action at 3), let alone that “an *entirety*” of such a cutout is covered by the crotch member. Indeed, Applicants could not find *any* support for such an assertion in any of passage of Morman cited by the Examiner.

Instead, Morman discloses that the panel webs 92, 94 are shifted in the longitudinal direction prior to the crotch member 50 being applied to the body panel webs such that the peaks 54 of the webs are aligned (Morman at paras. 66-67). As shown in FIGS. 3 and 5 of Morman, the only portion of any “cutout” of waste

S/N 10/624,660

Attorney Ref. No. 659-1143
Client Ref. No. 19,226

material that “extends from” one, or even both, of the cut edges 100, 102 “toward” a respective one of the outer edges 96, 98, as recited in claim 1, is positioned along the respective valleys 56 of Morman (*Id.*). As disclosed by Morman, however, the crotch member 50 is fastened to the webs 54 over the “peaks,” not the valleys (FIG. 3; para. 67), and clearly the crotch member does not cover the *entirety* of the valley. As such, Morman does not disclose or suggest that the crotch member “covers an *entirety* of said cutout,” since the cutout that extends from the cut edge toward the outer edge lies at least partially in the *uncovered* valleys 56 of the web. Because Morman does not disclose or suggest all of the recitations of claim 1, Applicants respectfully submit that claim 1 should be passed to allowance.

Claims 14 and 32:

The Examiner rejected claims 14 and 32 under 35 USC 103(a) as being obvious over U.S. Publication No. 2004/0122397 to Morman. As noted by the Examiner, Morman qualifies as prior art under 35 USC 102(e). In response, Applicants have removed Morman as prior art pursuant to 35 USC 103(c) and the statement of common ownership below.

Statement About Common Ownership:

The present application (S/N 10/624,660) and U.S. Publication 2004/0122397 to Morman were, at the time the invention of the present application, owned by, or subject to an obligation of assignment to, Kimberly Clark Worldwide, Inc.

S/N 10/624,660

Attorney Ref. No. 659-1143
Client Ref. No. 19,226

Remarks About “Withdrawn” Claims:

Since claims 3, 4, 6 and 33 now depend from an allowable claim, Applicants respectfully request that they be rejoined (see MPEP 821.04). Notice to that effect is earnestly solicited.

Remarks About Nonstatutory Obviousness-Type Double Patenting:

The Examiner has rejected claims 1-2, 7-15 and 32 under the doctrine of nonstatutory obviousness-type double patenting in view of various claims of USP 7,220,335, 7,419,562 and 6,979,380. In order to expedite the prosecution of this application, and without considering the merits of the obviousness-type double-patenting rejection, Applicants have submitted herewith a terminal disclaimer with respect to the noted patents. Accordingly, the Examiner’s rejections have been overcome and notice to that effect is earnestly solicited.

Conclusion:

Applicants respectfully submit that this case is now in condition for allowance. Should any questions remain, Applicants invite the Examiner to contact the undersigned attorney at (312) 321-4713.

Respectfully submitted,

Date: April 22, 2009

/Andrew D. Stover/
Andrew D. Stover
Registration No. 38,629
Attorney for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200